



SF 2239 – Elder Abuse Definition and Penalties (LSB 5237SV)

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Fiscal Note Version – New

Description

Senate File 2239 provides criminal and civil protections to older individuals, defined as age 60 or older. This Bill requires the Iowa Department on Aging (IDA) to establish an Elder Abuse Resource and Referral Program in each of the six Area Agencies on Aging (AAA) and for each AAA to designate an elder rights specialist to administer the Program. The Program goals are to increase the awareness of elder abuse; to provide options for elder individuals at risk of elder abuse; and to provide a mechanism to address prevention, detection, reporting of, and intervention in cases of abuse, neglect and financial exploitation of older individuals. This Bill also directs the IDA to collect and maintain information on incidents involving elder abuse, and to design and implement a uniform method of collecting data on elder abuse from entities involved in the prevention, detection, and reporting of and intervention in cases of abuse, neglect, and financial exploitation of older individuals.

This Bill provides for the filing of a petition for a protective order or temporary or emergency orders for elder abuse. Such petitions may be filed pro se (no filing fee is required). This Bill provides criminal penalties for elder abuse assault or elder abuse, and creates the crimes of theft against an older individual or financial exploitation of an older individual. This Bill imposes criminal penalties ranging from a simple misdemeanor to a Class B felony, enhanced penalties for repeat offenses, and mandatory minimum sentences of incarceration in a county jail or state prison, depending on the offense. This Bill permits the Crime Victim Assistance Division of the Office of the Attorney General to provide grants from the Victim Compensation Fund to providers of emergency shelter services and support services to victims of elder abuse.

Background

Correctional and Fiscal Information

- A significant number of the criminal offenses in this Bill may be charged as some other type of criminal conduct under current law. The offenders are likely to be sentenced to probation under Community-Based Corrections (CBC) supervision. Under SF 2239, they will be convicted of a higher offense class and remain under correctional supervision longer than current law. Expanded definitions and enhanced penalties generally increase criminal justice system costs. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Correctional Impact Memo](#), dated January 30, 2014, for information related to criminal justice system costs.
- According to the Justice Data Warehouse, in FY 2013 there were 4,701 offenders convicted of assault and 8,553 offenders convicted of theft. A percentage of these convictions will be impacted by the enhanced penalties and new crimes in this Bill.
- The average cost per case for the Judicial Branch is \$28 for a Simple Misdemeanor, \$208 for a Serious or Aggravated Misdemeanor, \$427 for a Class D, C, or B felony, and \$910 for a forcible felony.

- The cost for an indigent defense case is \$300 for a Simple Misdemeanor, \$600 for a Serious Misdemeanor, \$1,200 for an Aggravated Misdemeanor or Class D felony, \$1,800 for a Class C felony, and \$3,600 for a Class B felony.
- According to the Criminal and Juvenile Justice Planning Division (CJJPD) and the Department of Corrections (DOC), the following are estimates for sentencing, length of stay, and costs for assault and theft convictions. Assault crimes are classified as a crime against a person; therefore, length of stay under correctional supervision is longer than crimes within the same offense class. Theft crimes are property crimes and are considered to be nonperson crimes. Offenders sentenced to state prison for nonperson crimes generally serve a shorter prison term than crimes against a person.

Criminal Justice System Information

| Conviction Offense Class | Percent Sentenced to Probation | Avg Length of Stay on Probation (Months) | Avg Cost per Day for Prob/Parole | Percent Sentenced to CBC Residential Facility | Avg Length of Stay in a CBC Residential Facility (Months) | Marginal Cost per Day for CBC Res. Facility* | Percent Sentenced to County Jail | Avg Length of Stay in County Jail (Days) | Marginal Cost Per Day for County Jail* | Percent Sentenced to Prison | Avg Length of Stay in State Prison (Months) | Marginal Cost Per Day for State Prison |
|----------------------------|--------------------------------|--|----------------------------------|---|---|--|----------------------------------|--|--|-----------------------------|---|--|
| Simple Misdemeanor Assault | 0.0% | 0 | \$0.00 | 0.0% | 0 | \$0.00 | 36.5% | 8 | \$15.00 | 0.0% | 0 | \$0.00 |
| Serious Misd. Assault | 51.6% | 11.5 | \$3.35 | 1.0% | 5.9 | \$10.73 | 59.2% | 41 | \$15.00 | 3.1% | 6.2 | \$18.25 |
| Aggravated Misd. Assault | 60.0% | 17.6 | \$3.35 | 3.4% | 5.9 | \$10.73 | 33.3% | 45 | \$15.00 | 12.8% | 8.6 | \$18.25 |
| Class D Felony Assault | 42.1% | 31.0 | \$3.35 | 4.8% | 5.9 | \$10.73 | 0.0% | 0 | \$0.00 | 55.1% | 16.9 | \$18.25 |
| Serious Misd. Property | 56.0% | 11.5 | \$3.35 | 1.0% | 5.9 | \$10.73 | 32.9% | 49 | \$15.00 | 1.7% | 6.2 | \$18.25 |
| Aggravated Misd. Property | 57.2% | 17.6 | \$3.35 | 4.0% | 5.9 | \$10.73 | 27.1% | 52 | \$15.00 | 10.9% | 7.1 | \$18.25 |
| Class D felony Property | 70.3% | 31.0 | \$3.35 | 8.1% | 5.9 | \$10.73 | 0.0% | 0 | \$0.00 | 27.2% | 12.2 | \$18.25 |
| Class C Felony Property | 63.8% | 35.2 | \$3.35 | 6.9% | 5.9 | \$0.00 | 0.0% | 0 | \$0.00 | 38.0% | 21.8 | \$18.25 |
| Class B Felony Property | 3.2% | 33.6 | \$3.35 | 0.0% | 0 | \$0.00 | 0.0% | 0 | \$0.00 | 93.5% | 40.5 | \$18.25 |

* Approximately 95.0% of the marginal cost per day for a CBC residential facility is funded by local income.
**Marginal costs for county jails cannot be determined due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15.00 per day.

Minority Data Information

The table below shows the FY 2013 offender-based convictions by race for all levels of assaults and all degrees of theft. Black offenders are disproportionately convicted compared to their percentage of the Iowa population.

FY 2013 Offender-Based Convictions by Race

| Code Cite | White | Black | Hispanic | Native American | Asian | Other | Unknown | Total |
|-----------|-------|-------|----------|-----------------|-------|-------|---------|--------|
| Assaults | 68.9% | 18.1% | 4.3% | 1.6% | 0.6% | 1.3% | 5.2% | 100.0% |
| Thefts | 69.7% | 17.6% | 3.1% | 1.4% | 0.5% | 0.8% | 6.9% | 100.0% |

Refer to the memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2014, for information related to minorities in the criminal justice system.

Assumptions

Correctional and Fiscal Information

- The number of individuals seeking pro se protective orders cannot be estimated but is expected to be relatively small. The impact on revenue by eliminating the filing fee is expected to be minimal.
- The provision of grants to care providers to victims of elder abuse is permissive, not required. If the Office of the Attorney General receives federal funds for these purposes, those receipts will be deposited in the Victim Compensation Fund. Grant awards to care

providers to victims of elder abuse would be awarded from the Victim Compensation Fund. Administrative costs are minimal.

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice system policies and practices will not change over the projection period.
- This law will become effective July 1, 2014. A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of offenders into the correctional system.
- These will be bench trials. Trials by jury are rare. Refer to the *Fiscal Topic, Jury Trials* published by the LSA in August 2013 for additional information regarding the use of juries.
- Approximately 50.0% of the defendants will be indigent.
- The Uniform Crime Reports and U.S. Census data were used to estimate the number of offenders that would be affected by this Bill's sentencing provisions.
- Assault provisions for the proposed law may mirror the proportional distribution of domestic abuse convictions by offense class.

Minority Data Information: The impact on minorities will remain consistent with current data.

Summary of Impacts

Correctional Impact

SF 2239 impacts sentencing for an estimated 787 offenders. The table below shows the impact by offense class and type of crime.

Net Impact on Sentencing and Admissions to Correctional Supervision

| Conviction Offense Class | Total Number of Offenders Convicted | Number Sentenced to Probation | Number Sentenced to CBC Facility | Number Sentenced to County Jail | Avg Length of Stay in County Jail (Days) | Number Sentenced to Prison |
|----------------------------|-------------------------------------|-------------------------------|----------------------------------|---------------------------------|--|----------------------------|
| Simple Misdemeanor Assault | -33 | 0 | 0 | -31 | 8 | 0 |
| Serious Misd. Assault | -1 | -1 | 0 | 0 | 41 | 0 |
| Aggravated Misd. Assault | 28 | 17 | 1 | 10 | 45 | 4 |
| Class D Felony Assault | 6 | 3 | 0 | 0 | 0 | 3 |
| Simple Misd. Property | -553 | 0 | 0 | -68 | 8 | 0 |
| Serious Misd. Property | -200 | -112 | -2 | -66 | 49 | -4 |
| Aggravated Misd. Property | 634 | 363 | 25 | 172 | 52 | 69 |
| Class D Felony Property | 38 | 27 | 3 | 0 | 0 | 10 |
| Class C Felony Property | 63 | 41 | 5 | 0 | 0 | 24 |
| Class B Felony Property | 18 | 1 | 0 | 0 | 0 | 17 |
| Total Number of Offenders | 0 | 339 | 32 | 17 | 0 | 123 |

On an annual basis, there will be an estimated 28 offenders convicted of an Aggravated Misdemeanor Assault and six offenders convicted of a Class D Felony Assault. Four of the offenders convicted of Aggravated Misdemeanor Assault will receive multiple penalties, such as probation and a county jail sentence or CBC residential facility sentence. Currently, these offenders are convicted of a Simple Misdemeanor Assault (33 offenders) or a Serious Misdemeanor Assault (one offender). These offenders will remain under correctional supervision longer under SF 2239 than they would under current law.

On an annual basis, there will be an estimated 634 offenders convicted of an Aggravated Misdemeanor Property offense, 38 offenders convicted of a Class D Felony Property offense,

63 offenders convicted of a Class C Felony Property offense, and 18 offenders convicted of a Class B Felony Property offense. Currently, these offenders are convicted of the following Property offenses: 553 Simple Misdemeanors and 200 Serious Misdemeanors. Five of the offenders convicted of Aggravated Misdemeanor Property offenses will not be supervised by the corrections system. They may receive a fine, community service sentence, and/or unsupervised probation. Two Class D felons and seven Class C felons will receive multiple penalties, such as probation and a CBC residential facility sentence. These offenders will remain under correctional supervision longer under SF 2239 than they would under current law.

The table below shows the net correctional impact of SF 2239. The data is not totaled by fiscal year to avoid double counting offenders. Generally, offenders sentenced to county jail or a CBC residential facility also receive a probation sentence.

Correctional Impact of SF 2239

| Supervision Type | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|---------------------|---------|---------|---------|---------|---------|
| County Jails | 8 | 17 | 17 | 17 | 17 |
| CBC Res. Facilities | 16 | 32 | 32 | 32 | 32 |
| CBC Field Services: | | | | | |
| Probation | 170 | 509 | 678 | 848 | 1,018 |
| Parole | 0 | 49 | 106 | 133 | 168 |
| Net Change to CBC | | | | | |
| Field Services: | 170 | 558 | 784 | 981 | 1,186 |
| State Prison | 70 | 144 | 186 | 216 | 216 |

Minority Impact

It is expected this Bill will have a disproportionate impact on Black offenders because approximately 18.1% of the assault convictions and 17.6% of the theft convictions may be Black.

Fiscal Impact

The fiscal impact for SF 2239 is estimated to be an increased cost to the state General Fund of \$1.4 million in FY 2015 and \$2.7 million in FY 2016. The IDA will distribute \$550,000 between each of the six AAA's or \$92,000 for each Agency to hire an elder rights specialist, serve as a primary point of entry for questions and concerns related to elder abuse, and to operate a public education component. The IDA will need \$75,000 to administer the Elder Abuse Resource and Referral Program, assist with the public education component, and collect and maintain information on incidents involving elder abuse. County jail costs are estimated to increase by \$35,200 in FY 2016 and \$70,400 in FY 2016.

The table below shows the impact by areas of the criminal justice system and State and local government. Costs will continue to increase in future fiscal years because the length of stay in the corrections system generally exceeds one year for the criminal offenses in this Bill.

Estimated Fiscal Impact by Funding Source

| | FY 2015 | | | FY 2016 | | |
|-----------------------|------------------|---------------------|---------------------|------------------|---------------------|---------------------|
| | County Budgets | General Fund | Total | County Budgets | General Fund | Total |
| County Jail | \$ 35,200 | \$ 0 | \$ 35,200 | \$ 70,400 | \$ 0 | \$ 70,400 |
| CBC - Total | 0 | 133,300 | 133,300 | 0 | 744,000 | 744,000 |
| Field and Residential | 0 | 0 | 0 | 0 | 0 | 0 |
| State Prison | 0 | 416,100 | 416,100 | 0 | 832,200 | 832,200 |
| Judicial Branch | 0 | 67,000 | 67,000 | 0 | 133,300 | 133,300 |
| Indigent Defense | 0 | 185,000 | 185,000 | 0 | 364,000 | 364,000 |
| IDA | 0 | 625,000 | 625,000 | 0 | 625,000 | 625,000 |
| Total | \$ 35,200 | \$ 1,426,400 | \$ 1,461,600 | \$ 70,400 | \$ 2,698,500 | \$ 2,768,900 |

Sources

Iowa Department on Aging
 Department of Human Rights, Criminal and Juvenile Justice Planning Division
 Department of Corrections
 Office of the Attorney General
 Office of the State Public Defender
 Office of the State Court Administrator

February 28, 2014

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
